

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CARPENTER' DISTRICT COUNCIL OF)	
GREATER ST. LOUIS AND VICINITY,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. 4:08-CV-1403 (CEJ)
)	
CRAIG COLER, an individual)	
d/b/a C.C. CONSTRUCTION,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on plaintiffs' motion to compel an accounting, following an entry of default against defendant Craig Coler, doing business as C.C. Construction.

Plaintiffs bring this action to collect delinquent fringe benefit contributions pursuant to Section 301 of the Labor Management Relations Act of 1974, as amended, 29 U.S.C. § 185, and pursuant to Section 502 of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1132. Plaintiffs are four employee benefit plans (the Pension, Vacation, Welfare, and Training funds), their trustees (collectively, the plans), and the Carpenters' District Council of St. Louis (the union). They seek an order compelling defendant Craig Coler, doing business as C.C. Construction, to submit to an audit for the period of May 1, 2007, to the present.

According to the affidavit of Juli Laramie, controller for the plans, defendant is delinquent in submitting reports and contributions to the plans as required under the terms of a collective bargaining agreement entered into on June 28, 2005. Defendant was served with the summons and complaint on September 26, 2008, and has not filed an answer or otherwise appeared in this matter. The Clerk of Court has entered default against the defendant.

Plaintiffs move for an order compelling an accounting pursuant to Rule 55(b)(2), Fed.R.Civ.P., in order to determine the amount of damages. Plaintiffs have established that defendant Craig Coler, doing business as C.C. Construction, was bound by a collective bargaining agreement Carpenters' District Council from June 28, 2005 through the expiration of the agreement on May 5, 2008.¹ The agreement requires signatories to submit contributions to the funds, see § 5.08 (Pension fund), § 5.07 (Welfare fund), § 5.06 (Vacation fund), and § 5.04 (Training fund) and authorizes plaintiffs to examine the financial records to ascertain whether the required contributions were made. See § 5.10 (Delinquency penalties). The only means by which plaintiffs can determine the amount owed is through such financial compliance examination.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' motion for default order to compel an accounting [Doc. #6] is **granted**.

IT IS FURTHER ORDERED that defendant Craig Coler doing business as C.C. Construction shall, not later than **December 31, 2008**, produce for inspection by plaintiffs the payroll registers and other documents needed to perform an audit for the period of May 1, 2007, through May 5, 2008.



¹Plaintiffs have not established that defendant remains bound by the terms of the agreement after May 5, 2008.

CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 4th day of December, 2008.